

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.<sup>1</sup>

PROMESA  
Title III

No. 17 BK 3283-LTS  
(Jointly Administered)

**DECLARATION OF FERNANDO L. BATLLE**

Pursuant to 28 U.S.C. § 1746, I, Fernando L. Battle, hereby declare as follows under penalty of perjury under the laws of the United States of America:

1. I am a Senior Managing Director of Ankura Consulting Group, LLC (“Ankura”) and the Chairman of Ankura’s Latin America and Caribbean region. I have been serving as the lead financial consultant to the Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”) since July 2017. I am over 18 years of age. I submit this declaration in connection with *AAFAF’s Opening Expert Disclosures in Connection with Plan of Adjustment Confirmation*, served September 6, 2021.<sup>2</sup>

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<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801).

<sup>2</sup> My biography on Ankura’s website is enclosed as Appendix B.

## **I. Summary of Opinion**

2. The Monthly Benefit Reduction under the *Seventh Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico, et al.* (ECF No. 17627), filed on July 30, 2021 (“Plan”),<sup>3</sup> is flawed, from an expense standpoint. The incremental expense to the Commonwealth that would come from eliminating the Monthly Benefit Reduction (as defined below) in the Plan is only \$63.871 million<sup>4</sup> on average per year over the 30-year forecast period, which is approximately 0.63%<sup>5</sup> of total general fund expenses in the fiscal year 2022 budget. Given that the amount is relatively small, and that providing income to pensioners is so important, the Commonwealth would be able to satisfy this obligation by reducing spending in other areas or finding other sources of revenues should the revenue collections fall below projections, thus rendering the Monthly Benefit Reduction unnecessary.

## **II. Professional Background and Qualifications**

3. I have substantial management experience in both the private and public sector, and I have held senior leadership positions at institutions involved in commercial and investment banking, securities brokerage, asset management and public finance. I previously served as President and Chief Executive Officer of Santander Securities, where I oversaw the expansion of the enterprise in the United States, rebuilt the company’s compliance and risk-management programs, restructured a business division and lowered operating expenses by approximately 60 percent. I formerly served as an Executive Vice President of Financing and Treasury at the Government Development Bank for Puerto Rico (“GDB”). In my role at GDB, I participated in

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<sup>3</sup> Capitalized terms that are not defined have the meaning ascribed in the Plan.

<sup>4</sup> The Monthly Benefit Reduction of \$63.871 million represents the total cumulative Monthly Benefit Reduction included in the April 2021 Certified Fiscal Plan over the 30-year forecast period.

<sup>5</sup> The 0.63% represents the average annual Monthly Benefit Reduction included as part of the April 2021 Certified Fiscal Plan’s 30-year forecast period of approximately \$63.871 million, divided by the total general fund expenses included in the fiscal year 2022 budget of approximately \$10,112.390 million.

the design and implementation of new credit and pricing policies, oversaw numerous capital market and bank financing transactions and carried out the recapitalization of GDB's balance sheet. I formerly served in a number of senior executive positions at FirstBank Puerto Rico. I hold a Bachelor of Science degree from Northeastern University and a Master of Business Administration from Harvard Business School.

4. Ankura acts as financial advisor to AAFAF and reports to AAFAF's Executive Director, Omar Marrero. Ankura's roles include, among other things, preparation of the fiscal plans ("Government Fiscal Plans") and providing technical and financial analysis supporting the creation of the budgets ("Government Budgets") the Commonwealth government creates pursuant to PROMESA § 201 and § 202 for submission to the Financial Oversight and Management Board for Puerto Rico ("Oversight Board"), collaboration with the Oversight Board and its professionals on the development of the Oversight Board's certified Commonwealth fiscal plans ("Certified Fiscal Plans"), and review and analysis of the Certified Fiscal Plans, including its impacts on the Commonwealth's fiscal situation. Ankura is further involved in AAFAF's review and analysis of the Plan. In performing its work, Ankura works closely with other advisors including Milliman, Inc., the Commonwealth's actuary, which has conducted actuarial analyses of the Commonwealth's pensions liability as well as DevTech Systems Inc., the Commonwealth's economic advisor, which prepares the macro-economic forecast included as part of the Government Fiscal Plans.

5. As Senior Managing Director of Ankura, I am familiar with the reports and analyses produced by or on behalf of AAFAF and Commonwealth government entities. These reports and analyses are kept by AAFAF and Ankura in the regular course of their respective businesses and are made at or near the time of the events appearing therein by, or from information provided by,

persons with knowledge of the activities. I have personal knowledge of the matters stated herein or have acquired such knowledge by personally examining the reports and analyses kept by AAFAF and Ankura. If called upon to testify as to the matters stated herein, I would and could competently testify thereto.

6. In connection with my work for AAFAF, I have extensively reviewed the Plan and the Disclosure Statement and am familiar with the Plan's terms, particularly as it relates to pensions.<sup>6</sup>

### **III. Background of Government Fiscal Plans**

7. AAFAF is a public corporation that serves as both the fiscal agent and financial advisor to the Commonwealth pursuant to Act 2-2017. AAFAF creates the government-submitted versions of the Government Fiscal Plans, works with the Oversight Board on the creation of the Certified Fiscal Plans, and analyzes the Certified Fiscal Plans and the Plan. As lead financial advisor to AAFAF, Ankura is tasked with creating the Government Fiscal Plans on behalf of AAFAF and in reviewing and analyzing the Certified Fiscal Plans' and Plan's projections and impact on the finances and operations of the Government. From January 2018 to present, Ankura has prepared approximately 10 Government Fiscal Plans<sup>7</sup> and reviewed and analyzed approximately 5 Certified Fiscal Plans. I was and am directly involved in Ankura's work in this regard, and am involved in analyzing the Plan. I do so using a variety of inputs including public source data (including economic projections), analyses prepared by Ankura, and work provided to Ankura and AAFAF by other consultants.

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<sup>6</sup> The materials I have relied upon are listed in Appendix A.

<sup>7</sup> These fiscal plans include initial submissions of Government Fiscal Plans and final submissions of Government Fiscal Plans.

8. Among other things, the Government Fiscal Plans provide multi-year projections of the Commonwealth's pension expenses. For example, the Government Fiscal Plan submitted on March 26, 2021 contains 5-year, 10-year, 15-year, 20-year, and 26-year cumulative long-term projections of pension expenses from the Commonwealth's general fund, *see* Government Fiscal Plan at 58 (Mar. 26, 2021), and a summary of pension expenditures by fiscal year for FY21 – FY26, *id.* at 124. The Government Fiscal Plans that I have worked on do not propose to cut pension benefits.

9. In my experience working on the Government Fiscal Plans, the elected government has demonstrated a strong commitment to protect employees' and retirees' pensions. For example, the March 26, 2021 Government Fiscal Plan provides that the elected government has a "continued and unwavering commitment" to the defense of pensioners, including committing to "prioritize budgetary support of pensioners." *See id.* at 11; *see also* Disclosure Statement at 67 (position of the Government of the Commonwealth of Puerto Rico) ("Governor Pierluisi has also been consistently clear that his Administration opposes any additional pension cuts or freezes."). Based on the prioritization of pension benefits provided for in the Government Fiscal Plans dated March 26, 2021, March 8, 2021, May 3, 2020, March 27, 2019, March 10, 2019, September 7, 2018, April 5, 2018, March 23, 2018, February 12, 2018, January 24, 2018, March 13, 2017, February 28, 2017, and October 14, 2016, in conducting my work, I assume that the Commonwealth will continue to make every effort to prioritize the payment of its pension obligations.

#### **IV. Background of the Retirement Systems and Pre-Petition Pension Cuts**

##### **A. ERS**

10. ERS, established by Act 447 of 1951 ("Act 447"), is the primary multi-employer retirement system in Puerto Rico, and manages pensions for approximately 242,000 active

members, retirees, and beneficiaries, from 197 employers.<sup>8</sup> Most ERS retirees live in Puerto Rico—as many as 114,000 ERS retirees lived in Puerto Rico in 2019.<sup>9</sup>

11. ERS members who began to participate before January 1, 2000, historically participated in a defined benefit program.<sup>10</sup> The highest benefits structure was given to members who began to participate prior to April 1, 1990 (“Act 447 Participants”), and a reduced benefit structure was created under Act 1-1990 for members who began to participate on or after April 1, 1990 (“Act 1 Participants”).<sup>11</sup> In 1999, Act 447 was amended to close the program for new participants and, prospectively, establish a benefit structure similar to a cash balance plan (“System 2000”).<sup>12</sup> Members who began to participate on or after January 1, 2000 participated solely in System 2000 (“System 2000 Participants”).<sup>13</sup>

12. In April 2013, the Commonwealth enacted Act 3-2013, which effected changes to ERS pensions, including (a) freezing defined benefits for Act 447 Participants and Act 1 Participants accrued through June 30, 2013, and providing that their future benefits would accrue under a defined contribution formula paid at retirement through a lifetime annuity similar to System 2000; (b) increasing the retirement age for Act 447 Participants from 58 to 61, for System 2000 Participants from 60 to 65, and for new employees to 67 (with some exceptions); (c) increasing employee contributions from 8.275% to 10%, (d) paying retirement benefits as a lifetime annuity rather than a lump sum for System 2000 Participants, (e) reducing the Christmas bonus payable to current retirees from \$600 to \$200 (and eliminating it for future retirees), (f) eliminating the \$200 Summer bonus, (g) providing that future retirees will not receive any other

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<sup>8</sup> E&Y Section 211 Report at iv, 2 (Sept. 2019).

<sup>9</sup> *Id.* at 2.

<sup>10</sup> Disclosure Statement at 81.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

post-employment benefits, and (h) modifying disability and survivor benefits.<sup>14</sup> Additionally, cost of living adjustments were no longer issued following the enactment of Act 3.<sup>15</sup> The overall impact of Act 3 was a reduction in GASB accrued liability in 2013 of \$3.27 billion (or 13.5%).<sup>16</sup>

13. On August 23, 2017, the Legislature enacted Act 106-2017, which among other things, established a new defined contribution plan for all ERS active participants.<sup>17</sup> In addition, the accruals post-Act 3 to annuitized notional accounts were frozen as a result of Act 106.<sup>18</sup>

14. The Ernst & Young Section 211 Report quantifies the impact of Act 3-2013 and Act 106-2017 on ERS members. The report concludes that a sample Act 447 Participant suffered a cumulative reduction of 44%; a sample Act 1 Participant suffered a cumulative reduction of 53%; and a sample System 2000 Member suffered a cumulative reduction of 82%.<sup>19</sup> The Ernst & Young Report further notes that most ERS retirees have not received cost of living adjustments since 2007, and that by 2037, this translates for a retiree who retired in 2007 to a cumulative 39% reduction in purchasing power.<sup>20</sup>

## **B. TRS and JRS**

15. TRS, established by Act 218 of 1951, is the retirement system in Puerto Rico for teachers and employees of the Puerto Rico Department of Education, and manages pensions for approximately 76,000 active members, retirees, and beneficiaries.<sup>21</sup> JRS, established by Act 12 of 1954, is the retirement system in Puerto Rico for judges and other employees of the Judiciary Branch of the Commonwealth, and manages pensions for approximately 878 active members,

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<sup>14</sup> *Id.* at 81-82.

<sup>15</sup> *Id.* at 82.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> E&Y Section 211 Report at 12-13.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at vii, 13, 32.

<sup>21</sup> *Id.* at 1-2. This figure “[e]xcludes teachers hired after August 1, 2014 under Act 160–2013 whose hybrid account balances were to be transferred to DC accounts per Act 106–2017.” *Id.* at 2.

retirees, and beneficiaries.<sup>22</sup> Most TRS retirees live in Puerto Rico—as many as 42,000 retired teachers lived in Puerto Rico in 2019.<sup>23</sup>

16. In 2013, the Commonwealth attempted to reform TRS and JRS similar to ERS. Before 2013, TRS consisted of a defined benefit pension plan. Act 160-2013 sought to freeze TRS's defined benefit system, but after the Puerto Rico Supreme Court rejected part of Act 160, TRS administers two structures: (i) a defined benefit plan for active employees hired on or before July 31, 2014, and (ii) a hybrid plan for employees hired on or after August 1, 2014, which were transferred to a defined contribution plan under Act 106-2017.<sup>24</sup> For JRS, Act 162-2013 established a hybrid system for judges appointed on or after July 1, 2014, which includes defined benefit and defined contribution components.<sup>25</sup> The pension benefits for the defined benefit participants in the TRS and JRS plans prior to 2014 have not been frozen.<sup>26</sup>

17. The Ernst & Young Report further notes that most TRS retirees have not received cost of living adjustments since 2007, and that by 2037 this translates for a retiree who retired in 2007 to a cumulative 39% reduction in purchasing power.<sup>27</sup> JRS participants have received a statutory cost-of-living adjustment every 3 years since 2002.<sup>28</sup>

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<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at 2.

<sup>24</sup> Disclosure Statement at 83.

<sup>25</sup> *Id.*; *see also* E&Y Section 211 Report at 10.

<sup>26</sup> Disclosure Statement at 83.

<sup>27</sup> E&Y Section 211 Report at vii, 13, 32.

<sup>28</sup> Plan, Ex. E, at E-4.

## V. The Plan of Adjustment's Treatment of Pensions

18. The Plan divides active and retired employee retirement benefit claims into 12 classes: Class 51A through 51L.<sup>29</sup> The treatment of these classes under the Plan are elaborated upon in the Disclosure Statement.<sup>30</sup>

19. Among other things, under the Plan, certain pension benefits in ERS, TRS, and JRS accrued by active and retired employees before May 3, 2017 are subject to reduction (“Monthly Benefit Reduction”).<sup>31</sup> For any individual whose Total Monthly Retirement Benefit (exclusive of the Monthly Medical Insurance Plan Contribution) exceeds \$1,500 per month, the Plan provides for an 8.5% cut to the Total Monthly Retirement Benefit, provided the benefit cannot fall below \$1,500 per month.<sup>32</sup>

20. All Retirees subject to the Monthly Benefit Reduction are eligible for partial or total restoration of the benefit for any fiscal year that the Commonwealth achieves a budget surplus of more than \$100 million beyond the surplus projected in the Fiscal Plan (“Pension Benefit Restoration”).<sup>33</sup> In such case, 10% of the excess surplus would be distributed to Retirees on a pro-rata basis to restore partially or fully the benefit reduction for such year.<sup>34</sup> If the excess surplus is

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<sup>29</sup> *Id.*, Art. LV. AFSCME members are treated as Class 52 pursuant to the Plan Support Agreement with AFSCME. Disclosure Statement at 50-54. Furthermore, the Plan incorporates the terms of a proposed agreement with AFT, AMPR, and AMPR-LS, contingent upon the execution of a plan support agreement with the Oversight Board on or before September 30, 2021. *Id.* at 55.

<sup>30</sup> Disclosure Statement at 448-472.

<sup>31</sup> *Id.* at 48. The exception is System 2000 Active Participants (Class 51J), which is not subject to the Monthly Benefit Reduction. *Id.* at 48 n.85. Rather, Class 51J will receive the amount of their contributions from 2000 through June 30, 2017, plus interest through May 3, 2017. Such amount will be deposited into the Act 106-2017 defined contribution accounts. If the amount of contributions plus interest through the Petition Date is less than or equal to \$1,500,000,000.00, on the Effective Date, each holder will receive their Pro Rata share of such aggregate amount. If the total amount exceeds \$1,500,000,000.00, the Oversight Board and AFSCME will develop a payment plan to pay out the remaining balance in excess of \$1,500,000,000.00. *Id.* at 467.

<sup>32</sup> *Id.* at 48. For Active ERS Participant Claims (Class 51G), the portion of the calculated pension related to annuitized Law 3 contributions plus interest accrued through May 3, 2017 is exempt from the benefit reduction formula. *Id.* at 460. Furthermore, Class 51G participants with contributions under Law 3 and accrued benefits under Law 1 or Law 447 who are actively employed will receive a one-time contribution of \$2,600 to their Act 106 defined contribution accounts. *Id.* at 460-61.

<sup>33</sup> *Id.* at 49.

<sup>34</sup> *Id.*

less than \$100 million, no restoration payments will be made for that year unless additional restoration payments are included in the certified budget.<sup>35</sup>

21. In addition to the Monthly Benefit Reduction, the Plan further provides for additional reductions of employee benefits. My opinion herein is limited to the Monthly Benefit Reduction that would be implemented by the Plan.

#### **VI. September 2021 Analysis**

22. As part of its work, Ankura has analyzed the Monthly Benefit Reduction (“September 2021 Analysis”). Notably, following the certification of the April 23, 2021 Certified Fiscal Plan (“April 2021 Fiscal Plan”), there have been a series of material updates, events and information with significant favorable implications on the outlook for the Commonwealth of Puerto Rico. These include updates to assumptions used by the Oversight Board on the macro-economic forecast for Puerto Rico, significant progress related to the extension of Medicaid funding to Puerto Rico, and other miscellaneous updates regarding budgetary matters. In order to analyze the impact of certain of these known events, we prepared two illustrative scenarios, which are outlined below.

23. Overall, the September 2021 Analysis showed that the Monthly Benefit Reduction in the Plan are unnecessary because the amount of money the reduction would save is very small and the Commonwealth would compensate by reducing spending in other areas, or finding other sources of revenues should the revenue collections fall below projections given how important paying pensioners is, because paying pensioners can alleviate poverty in Puerto Rico and reduce the burden on the Government of providing social services to retirees.

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<sup>35</sup> *Id.*

**A. Background of the September 2021 Analysis**

24. My team and I started with the 2021 Certified Fiscal Plan financial model (“financial model”) that the Oversight Board posted to the Plan Depository.<sup>36</sup> The following three changes were then made to the financial model.

25. First, representatives of DevTech Systems, Inc., the Government’s economic consultant, updated the financial model for the July 2021 Congressional Budget Office (“CBO”) revised forecast, which represents the latest economic projections published by the CBO. Representatives of DevTech Systems, Inc. performed such update by revising the figures for United States Gross Domestic Product (“GDP”) growth in Excel line number 169 and United States inflation in excel line number 195 on the “Macro Forecast” sheet in the financial model, and re-running the iterative macro-economic model such that it was accurately refreshed. The resulting impact of these revisions was then discussed with representatives of DevTech Systems, Inc. and the Ankura team, including myself.

26. Second, we removed the Monthly Benefit Reduction from the financial model. This was done by removing the values from Excel line number 68 titled “COR cut agreement” on the Excel sheet titled “Pensions.”

27. Third, we added the incremental costs on account of the PREPA employees to the financial model. Per section 18.J.ii of the FY2022 Certified Fiscal Budget, the forecast cost of such employees in fiscal year 2022 is \$89,358,000. In an effort to be conservative, we made the assumption that the full amount of this expense was continuous and no portion of it was one-time in nature. This amount of \$89,358,000 was grown into perpetuity by Puerto Rico inflation,

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<sup>36</sup> The April 2021 Certified Fiscal Plan model is available in the Plan depository in the “Best Interest Test” confidential folder.

consistent with other general fund payroll expenditures. The expense was then added to the general fund payroll expenses in each year.

## **B. Illustrative Scenarios**

28. The scenarios referenced below include an update to the April 2021 Certified Fiscal Plan for the CBO forecast of United States GDP and United States inflation based on the July 2021 CBO update, published on July 1, 2021,<sup>37</sup> which projects a material improvement in the economic outlook as compared to the February 2021 CBO and March 2021 CBO forecast that was utilized in the macroeconomic forecast in the FY2021 CFP. In particular, the forecast of United States GDP is a material driver of Puerto Rico's expected future growth included in the Government Fiscal Plans and Certified Fiscal Plans, alike. However, the Government and Oversight Board have traditionally utilized slightly different approaches regarding the use of such information in their respective fiscal plans. In preparing Certified Fiscal Plans, the Oversight Board has historically opted not to convert the calendar year United States GDP and United States inflation data provided by the CBO to reflect the Puerto Rico fiscal year.<sup>38</sup> For consistency, because the Fiscal Plan projects on a Puerto Rico fiscal year basis, the Government has traditionally converted the calendar year United States GDP and United States inflation data to align with the Puerto Rico fiscal year in preparing the Government Fiscal Plans. The two scenarios referenced below differ only on account of the CBO update methodology, whereby the first scenario updates the forecast in a manner consistent with prior *Government Fiscal Plans* and the second scenario updates the forecast in a manner consistent with prior *Certified Fiscal Plans*.

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<sup>37</sup> CBO, Additional Information About the Updated Budget and Economic Outlook: 2021 to 2031 (July 21, 2021), <https://www.cbo.gov/publication/57263>.

<sup>38</sup> Puerto Rico's fiscal year ends June 30th, whereas the calendar year ends December 31st.

29. Scenario 1 includes the following updates to the April 2021 Certified Fiscal Plan. The revised cash flows under Scenario 1 are marginally worse than those included in the April 2021 Certified Fiscal Plan, by approximately \$26mm/year on average over the 30-year forecast period. *See Appendix C. Scenario 1:*

- Updates the macro-economic forecast for the July 2021 CBO projections in a manner consistent with prior Government Fiscal Plans.
- Includes the incremental costs associated with the transfer of former PREPA employees to the central government.<sup>39</sup>
- Includes the incremental costs associated with removing Monthly Benefit Reduction.

30. Scenario 2 includes the following updates to the April 2021 Certified Fiscal Plan. The revised cash flows under Scenario 2 are marginally better than those included in the FY2021 Certified Fiscal Plan, by approximately \$70mm/year on average over the 30-year forecast period. *See Appendix D. Scenario 2:*

- Updates the macro-economic forecast for the July 2021 CBO projections in a manner consistent with prior Certified Fiscal Plans.
- Includes the incremental costs associated with the transfer of former PREPA employees to the central government.<sup>40</sup>
- Includes the incremental costs associated with removing Monthly Benefit Reduction.

## **VII. Other Potential Economic Developments**

31. There are other important developments that, if realized, would provide the Commonwealth with enhanced liquidity to provide sufficient cash flows to obviate the need for

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<sup>39</sup> This reflects an estimated cost of \$89.4 million in FY2022, grown at Puerto Rico inflation thereafter. As a conservative assumption, assumes no attrition so the full amount of incremental cost in FY2022 is assumed to be permanent.

<sup>40</sup> This analysis assumes that the incremental cost on account of the transfer of former PREPA employees to the central government in fiscal year 2022 is ~\$89.4 million, which represents the amount currently included in the fiscal year 2022 budget. The full amount of the ~\$89.4 million is assumed to be continuous and is grown thereafter at Puerto Rico inflation from fiscal year 2023 through the end of the forecast period. Additional analysis regarding the cost of the transfer of former PREPA employees to the central government is ongoing.

Monthly Benefit Reduction. For example, there has been significant progress in recent months regarding Puerto Rico's efforts to obtain incremental federal funding for its Medicaid program. On July 15, 2021, the U.S. House Energy and Commerce Committee's Health Subcommittee approved H.R. 4406 (IH) - Supporting Medicaid in the U.S. Territories Act of 2021. This bill provides for federal Medicaid funding for Puerto Rico of at least \$2.7 billion per year through federal Fiscal Year 2026. Over the past few months, I have participated in various discussions with ASES employees, Government officials and other Government advisors regarding the future of the Medicaid program.

32. Based on these discussions, I believe it is plausible that the U.S. Congress will approve a bill that will provide for a significant amount of federal funding to the Commonwealth for a 4-year or 5-year period. I estimate that an agreement as contemplated under the H.R. 4406 bill would provide no less than approximately \$4.9 billion—which would fully cover the incremental costs on account of not proceeding with the Monthly Benefit Reduction—of incremental surplus relative to the April 2021 Certified Fiscal Plan, as that fiscal plan assumes that Congress would greatly reduce Puerto Rico's Medicaid allocation beginning October 1, 2021. The aforementioned scenarios do not include any positive impact associated with incremental federal funding for the Medicaid program, and I believe that any such positive impact further validates that Monthly Benefit Reduction included in the Commonwealth Plan of Adjustment are not necessary.

33. In addition to the progress made with respect to the Medicaid program, there have been other significant developments that have a positive impact on the macro-economic forecast, three of which are outlined below:

34. Nutritional Assistance Program (“NAP”) Funding: On August 16, 2021, the U.S. Department of Agriculture’s Food and Nutrition Service (“FNS”) announced a 23% increase, or \$463.8 million in annual funding, to the nutrition assistance funding provided by the Federal Government to the Commonwealth of Puerto Rico. I expect that updating the April 2021 Certified Fiscal Plan for this policy decision will have a positive impact on the macro-economic forecast, which is a critical driver of surplus as it is used to grow the vast majority of revenues in the fiscal plan.<sup>41</sup>

35. Infrastructure Bill: On September 9, 2021, the United States Senate approved a ~\$1 trillion infrastructure bill, of which Puerto Rico is estimated to receive ~\$2.3 billion.<sup>42</sup> Puerto Rico also has the ability to compete for additional funds not currently allocated under the \$12.5 billion Bridge Investment Program for economically significant bridges and nearly \$16 billion of national funding in the bill dedicated for major projects that will deliver substantial economic benefits to communities. If the infrastructure bill is passed, as expected, the incremental funds provided to Puerto Rico will have a material, positive impact on the macro-economic forecast, which is a critical driver of surplus as it is used to grow the vast majority of revenues in the fiscal plan.

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<sup>41</sup> USDA, *USDA Thrifty Food Plan Increase Means More Nutrition Assistance Funding for Puerto Rico* (Aug. 16, 2021), <https://www.fns.usda.gov/news-item/maro-081621>.

<sup>42</sup> The White House, *The Infrastructure Investment and Jobs Act Will Deliver for Puerto Rico* (Aug. 2021), [https://www.whitehouse.gov/wp-content/uploads/2021/08/PUERTO-RICO\\_Infrastructure-Investment-and-Jobs-Act-State-Fact-Sheet.pdf](https://www.whitehouse.gov/wp-content/uploads/2021/08/PUERTO-RICO_Infrastructure-Investment-and-Jobs-Act-State-Fact-Sheet.pdf). The estimate is based on a statement released by the White House on August 4th, 2021 detailing the impact of the Infrastructure Investment and Jobs Act for Puerto Rico. This figure includes the following: \$900 million to rebuild roads and highways, \$225 million for bridge replacement and repairs, \$456 million over five years to improve public transportation options across the Island, \$13.6 million over five years to support the expansion of an EV charging network on the Island, a minimum allocation of \$100 million to provide broadband coverage across the Island, \$2 million over five years to protect against wildfires, \$12 million to protect against cyberattacks, \$455 million over five years to improve water infrastructure across the Commonwealth, and \$102 million for infrastructure development for airports over five years.

36. Supplemental Social Security Income: On June 7, 2021 President Biden stated: “I believe that Puerto Rico residents should be able to receive SSI benefits, just like their fellow Americans in all 50 states and Washington D.C. I call on Congress to amend the Social Security Act to extend these benefits to residents of Puerto Rico . . . . As I’ve said before, there can be no second-class citizens in the United States of America. My Administration will work with members of Congress to make these legislative fixes a reality.”<sup>43</sup> President Biden and his administration are committed to providing equal treatment to Puerto Rico residents. Extending Supplemental Social Security Income to Puerto Rico would provide material incremental income to residents and would have a material, positive impact on the macro-economic forecast, which is a critical driver of surplus as it is used to grow the vast majority of revenues and expenses in the fiscal plan.

37. Importantly, scenarios 1 & 2 do not include any of the positive impact associated with the potential developments described in paragraphs 31-36. However, I believe that these items could have a material, positive impact on the projected surplus and, as such, further validates that including the Monthly Benefit Reduction as part of the Commonwealth Plan of Adjustment is unnecessary from an expense standpoint.

38. Furthermore, as stated above, I assume that the elected government, given its consistent and firm view on the matter, will choose to honor pension obligations within the future spending frameworks, even if there are budget deficits at some point in the future, and that doing so would have, at most, a very small impact on the Commonwealth’s finances. Over the April 2021 Certified Fiscal Plan’s 30-year forecast period, the incremental expense to the Commonwealth that would come from eliminating the Monthly Benefit Reduction in the Plan is

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<sup>43</sup> The White House, Statement by President Joseph R. Biden, Jr. on Puerto Rico (June 7, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/07/statement-by-president-joseph-r-biden-jr-on-puerto-rico/>.

only \$63.871 million on average per year, which, as noted *supra*, is approximately 0.63% of the total general fund expenses in the fiscal year 2022 budget.<sup>44</sup> Given that the amount is so small, the Commonwealth would be able to satisfy this obligation by reducing spending in other areas or finding other sources of revenues should the revenue collections fall below projections. This supports the Government's position of no need for the Monthly Benefit Reduction especially when considering that revenue projections beyond a 5-year period are inherently speculative and can fluctuate more than 0.63%.

I declare under penalty of perjury under 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed this 13th day of September 2021 at San Juan, Puerto Rico.



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Fernando L. Battle

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<sup>44</sup> The 0.63% represents the average annual Monthly Benefit Reduction included as part of the April 2021 Certified Fiscal Plan's 30-year forecast period of approximately \$63.871 million, divided by the total general fund expenses included in the fiscal year 2022 budget of approximately \$10,112.390 million.

# APPENDIX A

### Appendix A: Materials Relied Upon

- Ankura-AAFAF FY22 Contracts: 2022-000027, 2022-000026, 2022-000016, available at <https://consultacontratos.ocpr.gov.pr/>.
- CBO.gov, *Budget and Economic Data, 10-Year Economic Projections, July 2021*, <https://www.cbo.gov/data/budget-economic-data#4>.
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# APPENDIX B



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PEOPLE > Fernando L. Battle

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## FERNANDO L. BATLLE

Senior Managing Director

# Executive Leadership; Turnaround Execution; Financial and Strategic Advisory

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## EDUCATION

MBA, Harvard Business School

BS, Northeastern University

## CERTIFICATIONS

FINRA

Series 7- General Securities Representative

Series 50- Municipal Advisor Representative

Series 54- Municipal Advisor Principal

Series 24, 53 (not active)

## LANGUAGES

Spanish

Fernando Battle is a Senior Managing Director at Ankura, based in the Miami office. He has 30 years of professional experience in both the private and public sector developing and executing strategies for

managing complex issues, including restructuring situations involving multiple stakeholders. He has held senior leadership positions in securities brokerage and investment banking, asset management, commercial banking and public finance, with a track record of executing turnarounds and growing businesses. His broad experience includes strategic transformation and organization building, from “vision-to-strategy-to-execution”.

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## EXPERIENCE

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Fernando’s professional experience includes:

- Government of Puerto Rico: As lead financial and strategic advisor to the Commonwealth of Puerto Rico, Fernando has represented the Government in restructuring negotiations totaling over \$70 billion in debt across 17 different issuers, the largest and most complex municipal restructuring in US history. He also advises the Government on general strategic matters as well as financial management, performance improvement and cost reduction initiatives.
- Santander Securities: As CEO and Vice Chairman, Fernando spearheaded the expansion from a single office to overseeing 640 registered representatives operating in seven northeastern states, Puerto Rico, and Miami, with \$11 billion in assets under management. He rebuilt the company’s compliance and risk-management programs, and restructured a business division, lowering operating expenses

there by 60 percent. As Vice Chairman of Santander Asset Management, he was also responsible for the strategy direction of Puerto Rico's second largest asset manager, with assets under management of \$3.5 billion.

- Government Development Bank for Puerto Rico (GDB): Served as executive vice president of financing and treasury, and as chairman of the public-private partnership committees responsible for airport, water, and energy concessions. Fernando actively participated in the design and implementation of new credit and pricing policies, and oversaw more than two dozen capital market and bank financing transactions. He improved the bank's performance by recapitalizing the balance sheet with \$450 million in capital and permanent liquidity and restructuring more than \$600 million in credits. As a result of these efforts, Standard & Poor's upgraded its rating of Puerto Rico's General Obligation bonds for the first time in 28 years.
- First Bancorp: Served in a series of C-suite positions at the holding's retail bank, FirstBank Puerto Rico, and its credit, asset-liability management, information technology, and risk management committees. Fernando also served as president, chief operating officer, and board member at the FirstMortgage,

First Express, First Trade, and First Insurance Agency VI subsidiaries, and was a member of the boards of the insurance, international banking, and auto finance subsidiaries.

- FirstBank Puerto Rico: Oversaw the first sale of asset-backed security and subordinated debt in US capital markets by a Puerto Rican financial institution. He also implemented successful trading and options programs and led an international expansion by establishing FirstBank Overseas Corp.
- FirstBank VI: His initiatives and acquisitions transformed FirstBank into the largest full-service bank in the US Virgin Islands, with 12 branches and \$1 billion in assets by 2005, from just two branches and \$50 million in assets in 2002. A process-reengineering project at the retail branch network generated more than \$5 million in cost savings.
- Money Express: Through a complete restructuring, Fernando returned Puerto Rico's second-largest consumer finance company to profitability in less than three years.

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## IN THE COMMUNITY

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- Trustee-Puerto Rico Museum of Art

# APPENDIX C

**Scenario #1**

Metric: Adjustments to FY2021 CFP

(\$ in millions)

#	Description	30-Year Impact (FY2022-FY2051)	
		Total	Avg/Year
1.	<u>Scenario #1 Adjustments to FY2021 CFP</u>		
2.	Update for July 2021 CBO - Fiscal Year (a)	4,565	152
3.	Removal of Pension Cut Expenses	(1,916)	(64)
4.	Addition of PREPA Employees Expenses	(3,435)	(115)
5.	<b>Total, Adjustments to FY2021 CFP</b>	<b>(786)</b>	<b>(26)</b>
6.	<u>Memo: Other Miscellaneous Positive Events (Not Quantified)</u>		
7.	Medicaid Funding - Avoidance of Medicaid Cliff		
8.	Nutritional Assistance Program ("NAP") - Incremental Federal Funding		
9.	Infrastructure Bill - Incremental Federal Funding		
10.	Supplemental Social Security Income - Incremental Income to Residents		

Notes

(a) Converts CBO forecast of US GDP and Inflation from Calendar Year to Puerto Rico Fiscal Year.

# APPENDIX D

**Scenario #2**

Metric: Adjustments to FY2021 CFP

(\$ in millions)

#	Description	30-Year Impact (FY2022-FY2051)	
		Total	Avg/Year
1.	<u>Scenario #2 Adjustments to FY2021 CFP</u>		
2.	Update for July 2021 CBO - Calendar Year (a)	7,441	248
3.	Removal of Pension Cut Expenses	(1,916)	(64)
4.	Addition of PREPA Employees Expenses	(3,430)	(114)
5.	<b>Total, Adjustments to FY2021 CFP</b>	<b>2,095</b>	<b>70</b>

6. Memo: Other Miscellaneous Positive Events (Not Quantified)

- 7. Medicaid Funding - Avoidance of Medicaid Cliff
- 8. Nutritional Assistance Program ("NAP") - Incremental Federal Funding
- 9. Infrastructure Bill - Incremental Federal Funding
- 10. Supplemental Social Security Income - Incremental Income to Residents

Notes

(a) Maintains CBO forecast of US GDP and Inflation as Calendar Year (no conversion).